

# ***Standing Order on TRIAL Procedures***

## **Civility & Respect**

Being a trial attorney is not easy. The Court and Court Staff thank you for your cooperation and attention to these expectations.

First and foremost, the Court and Court Staff expect counsel to conduct themselves with **Civility and Respect**. The Court will take appropriate action should counsel violate this standard. *See, e.g. Teter vs. Deck*, 174 Wash.2d 207, 274 P.3d 336 (Wash.,2012); *State vs. Lindsay*, 180 Wash.2d 423, 326 P.3d 125 (2014).

## **Pre-Trial**

Please plan to raise and address all motions and evidentiary objections that can be ruled upon pre-trial BEFORE trial commences.

## **Use of Courtroom & “Well”**

1. You may move freely about the courtroom when examining witnesses. However, please do not lean over a witness or juror. Do not encroach upon their personal space.
2. Counsel and assistants shall respect and not invade the lower bench working areas of the Bailiff or Court Clerk without permission.
3. When court recesses at lunch and at the end of the day, please exit the courtroom promptly. (Court staff cannot leave the courtroom unattended and have other non-trial responsibilities outside the courtroom).

## **Equipment**

The Court has a limited amount of equipment available for counsel and parties during trial.

Counsel should expect that they will have to bring their own projectors, document cameras, or make arrangements with an outside vendor to provide any equipment needs. Please arrange with the Bailiff when to setup equipment in the Courtroom. Although Department 41's Bailiff and courtroom clerk are exceedingly accommodating, do not rely on, or direct, Court staff to set up or to work your trial equipment or the courtroom lights.

Please contact the Bailiff for equipment questions or needs at least 5 days prior to your trial date.

## **Voir Dire**

Counsel may not argue their case during *voir dire*.

Counsel may not argue facts or burden of proof during *voir dire*.

Counsel may make inquiry designed to elicit information that touches upon the qualifications of the jurors. This inquiry may include the knowledge of the venire of the various burdens of proof, but counsel MAY NOT ARGUE or lecture the jury on the burden of proof or any other legal issue.

Counsel may describe the facts of the case only in the context of identifying or exploring possible bias or prejudice of potential jurors.

Counsel may not use exhibits or visual aids during *voir dire* without first obtaining permission of the Court.

The following types of questions are generally improper:

1. Repetitive or embarrassing questions.
2. Questions that ask a jury to speculate on a verdict, if certain facts are proved.

3. Questions that ‘push’ or spin the evidence (as opposed to questions which glean information from a juror about their experience with situations similar to the facts of the case).
4. Questions that are irrelevant to a juror’s qualifications.
5. Questions that ask a juror to define legal terms.
6. Questions asked solely to establish a personal rapport with a juror.

Unless otherwise ordered by the Court, each counsel will be allowed a block of 20 minutes followed by a follow-up block of 20 minutes. Motions to excuse for cause should be made during *voir dire*, **while the jury is in the room**.

When *voir dire* has been completed, counsel will take turns exercising peremptory strikes on the record. It is the Court’s general practice to excuse the venire to the jury waiting room during counsel’s exercise of peremptory strikes. If Counsel would like the jury to remain during peremptory strikes, please discuss and reach agreement between the parties.

Each party will be allowed 6 peremptory strikes and one additional strike for each alternate juror. In exercising their strikes, Counsel are not limited to those members of the venire that are seated in the jury box but may exercise a peremptory strike on any member of the venire (subject to any *Batson/Saintcalle* objections).

*Batson/Saintcalle* issues are to be raised at the time the peremptory strike is announced. Counsel are to simply state that they object to the strike per *Batson/Saintcalle*. **If the jury is in the room**, the objection shall be noted, and challenged juror will remain seated until peremptory strikes have been completed. The venire will be excused and counsel will present argument on the record, but outside the presence of the venire. If the objection is sustained, the juror remain empaneled and counsel will be allowed an additional peremptory strike.

After all peremptory strikes have been exercised, the first 13 (14) jurors will be empaneled as the jury. At the first break, when the jury is not in the room, alternate juror(s) will be selected in open court through random drawing. Counsel will be made aware of the identity of the alternate(s). The identity of the alternate(s) will not be disclosed to the alternate(s) until the end of closing arguments.

### **Witnesses**

1. Plan for your witnesses to fill the entire court day (as much as you can control).
2. Advise your witnesses of orders in limine.
3. Witness examination is limited (absent extraordinary events) to direct, cross, redirect, and re-cross. Please ASK the Court before proceeding beyond re-cross.
4. Provide water for your witness, if necessary.

### **Interaction with the Jury**

1. Do not physically interact with jurors or encroach the jury box. Do not directly interact with or speak to the jury outside of *voir dire*, openings and closings. Advise your witnesses of this instruction.
2. If you wish to publish an exhibit to the jury box, ask the Court's permission before doing so. Please publish to the entire jury simultaneously. Do NOT hand exhibits to the jury for them to pass among themselves without obtaining express permission from the Court. You should then continue questioning without delay.
3. Do not show or ask your witness to show anything to the jury, whether a document, demonstrative piece of evidence or other object, unless it has been marked **and admitted** as an exhibit.

### **Trial Time and Court Schedule**

Trial will be in session Monday – Thursday, 9:00 a.m. – noon; 1:30 - 4:00 p.m., (two 15 minute breaks will be provided.) Confer upon assignment that Friday's are reserved for summary judgments and sentencing hearings.

### **Objections & Court Rulings**

1. Counsel should stand, state "objection" and briefly state the basis by title of the rule, heading, or rule number.
2. **Counsel may not make speaking objections during trial.** If counsel wishes to make additional argument, they may ask to be heard or for a

- sidebar. If counsel needs to supplement the record, the Court will provide an opportunity to do so at a later time.
3. Wait for a ruling on an objection; if you agree with an opposing objection, state that you will rephrase BEFORE doing so.
  4. Do not speak over opposing counsel, witnesses or the court. The record needs to be clear, which means that the Court Reporter or FTR needs to be able to clearly hear you and the witness.
  5. If you believe that the “**door has been opened**” on a subject that has previously been ruled upon, raise the issue with the Court outside the presence of the jury.
  6. Counsel’s statement “let the record reflect” does not require a judicial endorsement. Do not expect one.

### **Exhibits**

Unless otherwise ordered by the Court, exhibits are to be marked and numbered sequentially (1, 2, 3, etc.) regardless of the offering party.

Exhibits must be marked before they are shown to a witness or used for illustrative/demonstrative purposes.

Counsel must show opposing counsel any exhibit shown to a witness or published to the jury. Counsel should ask permission before publishing any exhibit to the jury.

1. Please address the admissibility of problematic exhibits pre-trial (if predictable).
2. **Anything** given to a witness must be marked as an exhibit.
3. Anything shown to the jury must first be admitted as an exhibit.
4. Absent counsels’ stipulation, illustrative exhibits do not go to the jury room.
5. Give opposing counsel an opportunity to view any exhibits or materials. (e.g. charts, photos) to be published during opening/closing.
6. Any item referred to by the witness is to be identified by exhibit number.
7. Exhibits may not be shown to the jury unless admitted or with permission of the Court.

The Court's exhibit notebook/compilation is to remain intact. Please do not remove items marked as exhibits from the courtroom.

### **Closing Argument**

Do not allude to any motions, exhibits, testimony, etc., that were not admitted into evidence or properly before the jury.

### **Working Copy Jury Instructions**

Please file copies (cited and uncited) of any proposed jury instructions with the Court Clerk when the case is called for trial.

Generally it is expected that Plaintiff will submit a full set of proposed instructions. Defendant may submit a set that supplements or alters the plaintiff's instructions. The balance of the instructions will be considered as 'agreed' instructions. Please use the most recent versions of the **Washington Pattern Jury Instructions**.

If you do not file a proposed instruction, it is likely that the Court will not consider it. See CrR 6.15(a) & CR 51.

At the earliest possible time, please e-mail a WORD version of UNCITED proposed jury instructions to both opposing counsel and to the court. ([williams.court@kingcounty.gov](mailto:williams.court@kingcounty.gov)).

Ordered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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MATTHEW WILLIAMS  
King County Superior Court Judge